



Appn No. : 10/002,763

Grp. No. : 3671

Date of Mailing: Jan. 18, 2005

**RESPONSE TO OFFICE ACTION OF 11/16/04**

**REMARKS AND ARGUMENTS**

**Office Action :**

**1. Drawing Objections:** The drawings are objected to under 37 CFR 1.83(a) because the drawings of the specie of Figs.13-A, 13-BL, and 13-BR do not show every feature of the invention specified in the claims, specifically the following:

"abutment means" for claims 89-91

"first and second apertures and snap button" for claim 93

"telescoping tubes" for claim 94

"securing means" for claim 110

**Applicant Response:**

**"abutment means" for claims 89-91**

According to the Webster's Third New International Dictionary, the word "abutment" is "a fixed point, surface, or body from which resistance or reaction is obtained" and the word "abut" means "to support by abutment". In the present invention, "abutment means" would relate to the method of preventing the separation of the two rake units from each other while being subjected to raking and handling forces.

**The present invention uses one or more of the following abutment means namely:**

- (a) **gripping connection** wherein the gripper/s or resilient member/s is/are positioned to operate normal (meaning

- perpendicular) to the raking plane (please refer to Exhibit D-1 of OA Response/RCE sent Aug, 04),
- (b) **recess** on a section of the rake handle that receives the gripper or resilient member,
  - (c) **overlapping rake heads**, the bottom rake head supporting the rake head over it,
  - (d) **snap button** disposed inside a rake handle, its positioning head engaging outwardly through an aperture on the handle and further outwardly through another aperture on the received resilient member of the other handle, and
  - (e) **pivotal connection** between the proximal end of one of the rake handles and an adjacent section of the other of the rake handles.

The phrase "abutment means" per se is not found in the specifications section of the patent application albeit its function is implied in each of the means (a) to (e) above. However, since the Examiner is uncomfortable with the use of the phrase, the applicant will cancel claim 89 and rephrase dependent claims 90 and 91.

Another way around this is to introduce the phrase into relevant parts of the specification via a specification amendment. Please note that this does not constitute new matter. Claims 89, 90, and 91 can remain unchanged. The applicant can rewrite back the claims and present new specification amendments if the Examiner prefers this approach.

**Figs.13-A, 13-BL, and 13-BR (sheet # 20) are amended to better illustrate the claimed embodiment of the present invention.** No new matter is added. All of elements (a) to (e) above are amply discussed in the specifications and illustrated in the drawings (although not all of them are together in one figure).

The citation CFR 1.83(a) does not specifically state that all features claimed must be shown in only one single drawing. An extreme case is when an allowed generic claim is involved. A figure relating to the generic claim could be less detailed than figures illustrating the different dependent claims embodying the different allowed species. The more elements are introduced, the more complicated and crowded the drawings become.

By the same token, if claims 92 and 114 are found allowable, following the satisfaction of the Examiner's objections, then, their dependent claims are also allowable provided they are discussed in the specifications and illustrated in the drawings. They need not all be in one drawing.

It is discussed in the specifications that one or more of the abutment means stated earlier can be used in the present invention. For instance, in Figs. 6-A, 6-CR, and 6-CL, non-overlapping rake heads might require two grippers, 104 and 106. In Figs. 9-R and 9-L, overlapping rake heads might require only one gripper. As shown in the original unamended Figs. 13-A, 13-BL, and 13-BR, the non-overlapping rake heads might require one gripper 104 and a snap button or one gripper 106 and a snap button. A recess may further be used in any combination to augment the holding power of the connections.

Therefore, complying with the Examiner's requirement that in order for dependent claims to be treated on their merit, every element in the dependent claims must be shown in Fig. 13-A, 13-BR, and 13-BL is very difficult. The resulting embodiment is going to contain redundant elements, thus giving the initial impression that the embodiment is over-abutted and that one can do better by eliminating some of the elements. Furthermore, the drawing is going to be so crowded with details - details that

are better depicted and understood when shown in a separate drawing.

Nevertheless, the applicant is trying very hard to comply with the Examiner's requirements if only to have some dependent claims treated on their merit and consequently allowed. The rake heads are overlapped, a second gripper is added, the recessed section is emphasized, the handle is shown as extendible, and the perspective views are revised to show the second aperture. No new matter is added.

If the second gripper 104 is the only gripper used, it can also have the first aperture. The second aperture is disposed in the adjacent section of the other rake handle containing the snap button. Again, this is not new matter. The idea is presented in paragraph 4 of the section heading Description of Picking Rake, Version II and Figs. 70 and 71. While a second gripper is shown, a second snap button and a third and fourth apertures are not depicted in Fig. 13-A or 13-BL or 13-BR because having them is being too redundant especially when the first gripper already has them. The resulting over-abutment will render the picking rake less manageable. Lodging and dislodging two button-heads at the same time is not an easy task.

In addition, the disclosure has introduced several methods of adjusting the length of the rake handle as well as the position of the first and second branches. These are illustrated in Figs. 14-A through 34-A and discussed in the specification section. Including them in that one drawing is just going to complicate things further.

**Claim 90** - Claim 90 recites "...abutment means comprising a recess on a section of the rake handles..."

This claim is amended to eliminate the use of the phrase "abutment means". No new matter is added.

**Claim 91** - Claim 91 recites "...abutment means comprising overlapping rake heads."

This claim is also amended to eliminate the use of the phrase "abutment means". No new matter is added.

**"first and second apertures and snap button" - Claim 93**

The revised perspective views in Figs.13-BL and 13-BR now show the first and second apertures and snap button. No new matter is added.

**"telescoping tubes" - Claim 94**

Fig. 1 and revised Figs.13-A, 13-BL, and 13-BR now show the left rake handle as being extendible. No new matter is added. The details of the extendible handle are discussed under subsection headings Adjustable Handle Length, Version II and More detailed Discussion of Some Means of Telescoping Tubes. These are further supported in Figs.36-A through 43-C.

For the picking rake with the pivotal connection, the extendible handle is shown in Figs. 33-A and 33-B.

**"securing means" - Claim 110**

If claim 88 is found allowable, dependent claim 110 will be an embodiment shown in Fig.1-A and not Fig. 13-A. This is because claim 88 is a linking claim for the first and second embodiments. Please refer back to Exhibit B sent with the previous RCE. More arguments will be presented in another section regarding claim rejections.

The element "securing means" comprise of several possible methods as discussed in the specification. They are also described in withdrawn claims 82-86.

**Other Drawing Amendments:**

Fig.1 depicting the elected embodiment is provided as sheet #1. This figure will precede Fig. 1-A in the order of presentation. Since Figs. 1-A and 1-A' are made to fit in one sheet(sheet#2) instead of two, the total number of sheets is maintained. This will minimize the need to re-number the rest of the drawing sheets. The Description of Drawings section of the application has been amended accordingly.

In addition, the applicant finds it appropriate to amend Fig. 1-B (sheet#3) and Fig. 1-C (Sheet#4). The reference number for the gripper on the vertical portion of the transverse branch will be changed from #106 to #104. This change is done in order to establish consistency between Fig. 1-B and Fig. 6-CL. In Fig. 6-CL the gripper on the vertical portion of the transverse branch is ref. #104 while the gripper on the elongated member proximal the branches is ref. #106. It is hoped that the resulting consistency will better help the reader see the connection between the embodiment in Fig. 1-A and that in Fig. 6-A, how the former could easily "metamorphose" into the latter. Corresponding amendments to the specification section is also submitted in the Specification Amendments section of this Response. No new material is added.

**Office Action:****2, 3, & 4. Claim Rejections under 35 USC 112:**

Claims 88-94, and 110 are rejected under 35 USC 112 par. 2 as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention.

Claim 88 contains the indefinite phrase "... or equivalent..." therefore, the meets and bounds of the claim cannot be determined.

**Applicant Response:**

**Claim 88:**

According to the Doctrine of Equivalents a device element is equivalent if it performs the same function in the same way to achieve the same result as the claim element.

Therefore, the word "equivalent" is not really indefinite. An equivalent of an element is one that also performs the same function in the same way to achieve the same result. This definition is important because patentability arguments rely heavily on proving that an element is not equivalent to one in prior art. The applicant rely on this definition to support the arguments presented.

However, since the Examiner objects to the inclusion of the phrase "or equivalent" the applicant is deleting it from claim 88. **The words "or equivalent" are read into the interpretation of every claim even if it is not literally in the text.** The applicant was told by a patent attorney consulted that it is all right to include the words in a claim.

Non-elected claims 82 - 86 contain the phrase "or their equivalents". It is hoped that with this clarification, it would not be necessary to delete those phrases in case they get examined.

In item# 6 of the Office Action, it was noted that claim 88 is substantially equivalent to the specie set forth in claim 112. Claim 112 was not rejected under 35 USC 112 but rather under 35 USC 102(anticipated by prior art). Claims 88 and 112

contain the same elements (dual rake heads, dual rake handles, hand grips, gripping connection operating normal to the raking plane, etc.). The applicant can conclude that by deleting the phrase "or equivalent" claims 88 - 94, and 110 can now be considered as particularly and distinctly pointing the subject matter regarded as the present invention. Also, like claim 112, claims 88 - 94 and 110 have to overcome rejection under 35 USC 112. Arguments presented by the applicant towards the patentability of claim 112 therefore apply to claim 88 and its dependents as well. These arguments will be presented under Office Action #7 shortly.

**Office Action:**

**#5, #6, and #7 - Claim Rejections under 35 USC 102**

**#5 and #6 - Claims 111, 113, 115, 117 are rejected under 35 USC 102(b) as being anticipated by Callis.**

Claims 115 and 117 set forth a different specie, non-elected, therefore are not treated on their merit.

Claims 112 and 114 are substantially equivalent and represent the specie described in claims 88 and 92 respectively.

**#7 - Claims 88-91, 93-94, 110, 111-113, 115, and 117 are rejected under 35 USC 102(e) as being anticipated by Mitchell.**

**Applicant Response to**

**Claim 111, 113, 115, and 117 being anticipated by Callis and Mitchell:**

**Claim 111 is not anticipated by Callis**

The applicant has been directed in previous OA responses to argue against anticipation by just Mitchell. It is now necessary to present arguments against Callis.

Claim 111 recites a "connecting means on at least one of the rake units for joining the two rake heads together in a raking position and for parting the two rake heads in a picking position...".

The Examiner argues that Callis' strap (ref 3) on a rake handle (ref 1) is a connecting means that is equivalent to the connecting means recited in claim 111, and that the first transverse branches (ref 2) of Callis also face each other during the picking operation, thus anticipated.

Under the law 35 USC 102, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

**Callis' strap is not equivalent to the connecting means described in claim 111 because it has a different function.** It is not taught in the patent disclosure that the strap can be used to connect two rake units together to form one single rake for raking purposes. The strap is used simply for a user's arm during the picking process. **It can be considered a connecting means for connecting the user's arm to the rake handle.** The presence of two transverse branches on opposite sides of the same rake handle supports the idea that two rake units are not meant to be joined together side-by-side. Otherwise, the inner branches would be bumping against each other.

For the sake of argument, if the straps of two Callis rakes were "tied" together, the resulting combined rakes would be flip-flopping in many directions during the raking process. **Since there is no provision in the disclosure for another**

element or connection that could possibly be used to stabilize the flip-flopping combination, the use of the strap to connect two rake units or if the units should be connected at all could not have been foreseen or anticipated by Callis. Claim 1 of Callis specifically states that "...said rake means are free of and unattached to and freely moveable with respect to one another...".

Claim 111 also recites that the rake handles are next to each other side-by-side along their inner sides while in the raking position. This is possible only by having hand grips that extend **outwardly** from the rake handle as recited in claim 111 and using one or more of the connecting means described in the disclosure of the present invention. **Arranging the rake handles side-by-side is not possible with Callis' handgrips.** Therefore, the idea of a side-by-side handle arrangement cannot have been inferred from Callis' disclosure; claim 111 cannot have been anticipated by Callis. This arrangement is novel, unexpected, clearly patentable.

The applicant agrees that in the picking mode, the transverse branches of Callis are also facing each other. However, referring to Callis' Fig.3, the user has to spread his fingers in order to accommodate the rake handle in the center of the transverse branch. This could be uncomfortable and could easily tire the user before the picking job gets done. **Therefore, from the viewpoint of the user, Callis' face-to-face handgrips is not equivalent to claim 111's face-to-face hand grips even in the picking mode.**

The position of the hand grips in the picking mode is not the only element relied upon to distinguish claim 111 over prior art. If the Examiner considers the relative position of the branches in the picking mode as an element for comparison, then

the Examiner should also consider the position of the other parts in other modes as well.

Assuming two Callis rake straps are tied in the raking mode, Callis branches would be interfering with each other, therefore, the rake handles cannot come side-by-side. Since the disclosure does not provide for any other "connecting" element, the resulting combination is a mess. That is why the idea of joining two rake units side-by-side in the raking mode is unobvious and novel, thus patentable.

The present invention as embodied in claim 111 is not just about structure, although structural-wise, it is also able to overcome Callis. This is because not all of its elements are found, either expressly or inherently described in Callis (i.e. connecting means for joining rakes, hand grips extending transversely outwardly so that they do not interfere with each other when joined, and two rake units joined side-by-side in the raking position). Claim 111 structure also embodies a method of doing something - a method of raking and picking and raking and picking and so on, all in one seemingly seamless operation. There is never any need to bend, stoop, tie and untie a strap, or go somewhere to retrieve a second rake before one can start picking. Callis can rake in the conventional manner using only one rake unit at a time. The user still has to take a second rake and strap his arm before picking starts. The user also has to unstrap his arm and put one rake away before he can commence raking. Imagine the inconvenience involved if you have to do the picking and raking and picking and raking in shorter cycles, for instance during the last part of the chore. Therefore, in a larger sense, the seamless raking and picking operations embodied in the elements of claim 111 cannot have been anticipated by Callis.

**Claim 111 is not anticipated by Mitchell:**

Again, to be anticipated, every element in claim 111 should be found expressly or inherently described in Mitchell. The applicant has gone to great lengths arguing against Mitchell in previous OA responses.

The Examiner argued that the hand grips of Claim 111 is equivalent to Mitchell's handhold. **The dual hand grips of Claim 111 is not equivalent to Mitchell's single handhold (ref 107) for the following reasons:**

- a. **structure** - Claim 111 recites a hand grip for each rake unit. Mitchell's left rake part does not have a hand grip. Therefore, even if the right hand grip of claim 111 is held equivalent to the handhold of Mitchell (which it is not), that is just one element. **No equivalent transverse handhold is found for the left hand grip. It does not satisfy the anticipation requirement.**
- b. **function** - **The synergistical function contributed by the second hand grip of the present invention is lacking in Mitchell.** During the picking operation, the two hand grips of claim 111 are held facing each other and moving together in opposite directions. In Mitchell, the single handhold is not even being used (see Fig.3). The semi-cylindrical member (ref 69) and rake handle (ref 9) are used for picking instead. The semi-cylindrical member and rake handle of Mitchell cannot be equivalent to the two hand grips of claim 111 because of structure. Neither of them extends transversely from the rake handle. **The transversity, location, and symmetrical arrangement of the hand grips play an important synergistical role in the aligning, connecting, and disconnecting operations of the picking rake. It allows the connecting and disconnecting operations to operate sideways with a minimum of effort.** One single transverse handhold and an elongated

rake handle cannot produce the exact same or equivalent result as the hand grips of claim 111.

Another element in claim 111 that is not equivalent to anything in Mitchell is that the connecting means recited is such that the rake handles joined in a raking position are arranged side-by-side along their inner sides, their longitudinal axes substantially parallel. Being such, the connecting means must operate in a sideways direction perpendicular to the raking plane. Mitchell's two rake handles are arranged one-over-the-other such that the connecting means must operate along the raking plane. This goes to say that the connecting means in claim 111 cannot be equivalent to any connecting means in Mitchell. This difference alone is very important and enough to distinguish claim 111 from Mitchell. A side-by side handle arrangement and one-over-the-other handle arrangement cannot be equivalent. Connecting means operating along planes perpendicular to each other cannot be equivalent. Also note that both the rib and the hook and opening connection means of Mitchell abut the rake units from separating sideways - the very direction of the detaching and attaching operations of the present invention. **Claim 111 teaches the opposite of what Mitchell teaches.**

Therefore, claim 111 cannot be anticipated by Mitchell.

**Claim 112 cannot be anticipated by Mitchell.**

Claim 112 is a claim dependent on claim 111. The arguments presented above for claim 111 apply here as well. The added elements in claim 112 are the specifications of the connecting means in claim 111. The connecting means comprises of a resilient member on a handle portion that snaps onto and off an

adjacent portion of the other rake handle during the raking and picking operations respectively in a side directed motion along a gripping plane substantially normal to the raking plane.

Mitchell's rib is not equivalent to the resilient member or gripper of the present invention because it operates along (not normal to) the raking plane. The examiner argues that the resilient member of the gripping connection is equivalent to the "hook" (ref 87) of the hook and opening connection of Mitchell. The applicant disagrees. Mitchell's hook is not equivalent to the gripper and the hook and opening connection is not equivalent to the gripping connection of claim 112 for the following reasons:

- a) The hook is not resilient; it is shaped to fit just right into the opening without give or being stretched, compressed, or bent.
- b) The hook does not "snap onto" and "snap off" sideways normal to the raking plane during attaching and detaching operations, instead it operates along the raking plane as a fulcrum about which the second rake head rotates.
- c) The hook is not on a rake handle unlike the present invention's gripper that is also within reach and easy sight of the user; instead it is on a rake head and distant from the user's reach and sight.
- d) If the "hook" is compared to the gripper, then the "opening" should also be compared to a section of the rake handle that receives the gripper. The "hook" and the "opening" both have to be added to the Mitchell invention to complete the connection. For the present invention, all that is required is one element - the gripper. The other portion that receives the gripper, the rake handle, is already an inherent part of the

rake unit. The function of the element "opening" of the Mitchell rake is absorbed by the rake handle. A structural element has been eliminated.

- e) The hook and opening connection abuts the rake units from separating sideways. The gripping connection abuts the rake units from separating along the raking plane yet allows the rake units to be detached sideways, therefore teaching the opposite that of prior art.

Claim 111 is distinguished from Mitchell by the structure and synergistical function of the hand grips and by the structural arrangement(side-by-side) of the rake handles. Further add to these the gripping connecting means distinguished by factors a) through e) above and it is clear that claim 112 could not have been anticipated by Mitchell. Claim 112 is novel, unobvious, thus patentable.

**Claim 113 is not anticipated by Mitchell:**

Claim 113 is dependent on claim 112 that is also dependent on claim 111. It further recites a pivotal connection on the upper end of one of the rake handles. Mitchell does not teach of any pivotal connection in the patent disclosure either expressly or inherently. The rib and the hook and opening connections will be rendered inoperable if there was a pivotal connection on the upper end of one of the rake parts. It was argued just above that claims 111 and 112 could not have been anticipated by Mitchell. Therefore, a narrower claim 113 could not have been anticipated by Mitchell.

**Claim 113 is not anticipated by Callis:**

Claim 113 is a claim dependent on claim 112 that is dependent on claim 111. It was argued earlier that claim 111

could not have been anticipated by Callis. The transverse branches (ref 2) and the straps do not teach toward the idea of connecting two rake units side-by-side for use as one unit in conventional raking. It was also argued just above that claim 112 could not have been anticipated by Mitchell. The Examiner did not reject claim 112 as also being anticipated by Callis. Rightly so, because Callis does not have a gripping connection or any rake-to-rake connecting means for that matter. The strap (ref 3) is meant to connect the user's arm to the rake handle. Even if the straps are tied together, the rest of the limitations recited in claims 111 and 112 cannot be met.

Since claim 113 is dependent on claim 112 and reciting even more elements, thus narrowing the claim further, it could not have been anticipated by Callis.

Claim 113 recites "...a securing means disposed on the upper end of one of the first and second rake handles through which a pivotal connection is extended...". Here, the exact location of the securing means and the nature of the added connection (pivotal) are specified. It can be argued that two straps, if tied together, could unintentionally produce some kind of a "pivotal connection". However, such a connection could not have been anticipated by Callis after considering the rest of his disclosure. Please refer back to arguments for Claim 111. In addition, claim 113 includes the gripping connection of claim 112 that helps stabilize the pivotal connection in a side-by-side handle arrangement during the raking operation. This gripping connection is one Callis does not have nor teach. Therefore, claim 113 could not have been anticipated by Callis.

**Claims 115 and 117 are not anticipated by Callis:**

Claims 115 and 117 are both dependent on claim 111. It is earlier argued that claim 111 could not have been anticipated by

Callis. Therefore, the addition of more narrowing elements could only support the conclusion that claims 115 and 117 are also not anticipated by Callis.

The Examiner also stated in #6 Office Action that these claims were not treated on their merit because they set forth a non-elected different specie. They are still presented here in the event that the applicant is finally able to convince the Examiner that its parent generic claim 111 is patentable, thereby allowing the examination of a reasonable number of dependent species.

If claim 111 is not found allowable, claims 115 and 117 are considered canceled.

**Claim 88 is not anticipated by Mitchell:**

It was noted in #7 of the Office Action that claim 88 is substantially equivalent to claim 112. Therefore, all the arguments presented for claim 112 above should be considered for claim 88 as well. Claim 88 could not have been anticipated by Mitchell. It is novel and unobvious, therefore patentable.

**Claim 89 is canceled**

Claim 89 is canceled simply to obviate the need to interject the phrase "abutment means" into the specifications. This cancellation does not constitute the removal or addition of any new matter in the application.

**Claim 90 is not anticipated by Mitchell:**

Claim 90 is dependent on claim 88. It recites of a recess disposed on a section of one of the rake handles for receiving the resilient member. Mitchell's rib is not received in any recessed portion of the rake handle. Its "hook" is received in an "opening" on the rake head and not on a handle. The "opening" is a hole. The "recess" is just a depressed section of a handle.

The "opening" in conjunction with the "hook" abuts the two rake parts from moving sideways. The recess in conjunction with the gripper abuts the two rake parts from moving along the raking plane. Structurally and functionally, the recess on the rake handle and the opening on the rake head cannot be equivalent. Therefore claim 90 could not have been anticipated by Mitchell.

**Claim 91 is not anticipated by Mitchell:**

Claim 91 is a claim dependent on claim 88. It recites overlapping rake heads. **The function of the overlap/underlap in the dual rake heads is not equivalent to Mitchell's flange.**

In Mitchell, the flange on the first rake head upon which the second rake head "rests" may support the second rake head while in a horizontal position but by itself, absent the hook and opening connection, does not provide abutment against raking forces because, it does not touch the ground during the raking operation. Most importantly, it is not possible to extend it towards the ground because the hook and opening connection will be rendered inoperable. The hook and opening connection acts as a fulcrum during the attachment and detachment operations about which the second rake head rotates. If the flange extends down to ground level, the second rake head could not rotate about the hook and opening.

In the present invention, the "overlapped" portion of the rake head reaches all the way down to ground level to help absorb the raking forces that are consequently abutted by the strategically positioned grippers and the user's hands during the conventional raking operation. One of the user's hands is acting on both hand grips while the other is acting on the end of the long rake handle which is also coupled to the "overlapped" rake head. That is why, if overlapping rake heads are used, less number of grippers are required and the snap

button can also be eliminated. Also, the overlapping rake heads provide more pick-up volume during the picking operation. Therefore, claim 91 could not have been anticipated by Mitchell, and should be allowed.

**Claim 92 - Allowable Matter - discussed under #9 of Office Action**

**Claim 93 is not anticipated by Mitchell:**

Claim 93 is a claim dependent on claim 88. It can now be examined on its merits because the "second aperture" 122-22R is made visible in amended Fig. 13-BR. **The gripper and snap button combination is unlike any connection in Mitchell or Callis,** thus, claim 93 cannot have been anticipated.

**Claim 94 is not anticipated by Mitchell:**

Claim 94 is a claim dependent on Claim 88. **It recites elements pertaining to an extendible rake handle that is retracted when picking and extended when raking. Such an idea has never been explored in the field of dual-purpose rakes.** It can now also be examined on its merits because Fig.13-A has been amended to show this type of handle on a picking rake. The picking operation is definitely easier without the poking end of one of the rake units. The element is novel and unobvious, thus clearly patentable.

**Claim 110 is not anticipated by Mitchell:**

Claim 110 is a claim dependent on claim 88. It recites a pivotal connection, a connection not in Mitchell, therefore could not have been anticipated by Mitchell. The Examiner may also consider it a claim to a different embodiment. However, if claim 88 is found allowable, this embodiment could be covered.

**Office Action:****#8 and #9 - Allowable Subject Matter:**

#8 - Claim 114 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#9 - Claim 92 would be allowable if rewritten to overcome rejection under 35 USC 112, par.2, set forth in the Office Action and to include all the limitations of the base claim and any intervening claims.

**Applicant Response:**

#8 - The applicant is grateful for the finding of allowable matter in the application. Claim 114 is rewritten in independent form as claim 118 in compliance with the Examiner's requirements.

#9 - Claim 92 is also rewritten in independent form as claim 119. The indefinite phrase "or equivalent" is eliminated. The claim elements are substantially equivalent to claim 114. Since claim 114 was not rejected under 35 USC 112, the applicant assumes that the eliminated phrase "or equivalent" is the culprit.

**Office Action:****#10 - Response to Amendment sent by Applicant 9/04.**

The Examiner is not persuaded by the arguments presented by the applicant to prove that the specie claimed in claim 88 is the same one claimed in claim 81. Spring clip (ref 104) in Fig. 6-CL is not equivalent to element ref 136 of Fig. 13-BL. Claim

88 recites "...a gripping connection...resilient member...has an opening capable of receiving the outer dimensions of...rake handles". This resilient member clearly points to element ref 136 of Fig. 13-BL and not to spring clip 104 because spring clip 104 does not receive the outer dimensions of a rake handle but rather a bevel portion which is less than the outer dimensions of the rake handle.

Also, claim 81, which calls for a pivotal connection, refers to a specie other than that in claim 88.

**Applicant Response:**

Firstly, an agreement as to the consistency of names of elements in the invention is necessary before further argumentation.

The Examiner's "spring clip" 104 in Fig. 6-CL is the applicant's "resilient member" or "gripper". Element ref 136 from Fig. 13-BL is a resilient member or gripper as well. It is shown elongated to provide room for an optional aperture for a snap button. This is stated in the specifications under the subheading Variation 4 of the heading Attachment Variations for Picking Rake, Version II.

The Examiner's "bevel portion" in Fig. 6-CL is the applicant's "recess".

When referring to an elongated member such as a rake handle, "outer dimensions" by convention refers to the outside diameter, circumference, perimeter, or wall of the elongated member and its length. In the "recessed" portion of the handle, "outer dimensions" would refer to the outside diameter or wall of that recessed portion. It may be less than the unrecessed portion, but it nevertheless is still referred to as the outer dimension of that portion.

When referring to an article like a gripper, the relevant dimension would be its "inner dimensions". This would be its inside diameter, circumference, etc. and also its length. The inside dimensions of the gripper reflect the grippers' capacity to "grip" or receive another, like a "recessed" elongated member for instance. Inner and outer lengths are usually equal.

Therefore, a recess receives the "inner" dimensions of the gripper while a gripper receives the "outer" dimensions of the recess for a snug fit.

Given the above clarifications, the applicant will now argue further as to why the embodiments of claim 88 and claim 81 should not be restricted to one or the other. This is necessary again because, it seems that the applicant was not well understood in her previous attempts.

Claim 88 recites, "...wherein the first rake handle comprises a first elongated member and a first hand grip and the second rake handle comprises a second elongated member and a second hand grip; and...wherein the gripping connection comprises a resilient member disposed on one of the first and second rake handles; ...has an opening capable of receiving the outer dimensions of an adjacent section of the other of the first and second rake handles..."

Based on the above elements of claim 88, a resilient member said to be disposed on a rake handle can either be on the elongated member or on the hand grip. Therefore, resilient members 104 (on the hand grip), 106 (on the elongated member) and 136 (on the elongated member) are all covered in claim 88.

Claim 88 also recites "....connecting means....for keeping rake heads together during the raking operation and apart during the picking operation....wherein said connecting means comprise a gripping connection...." The key word is "comprising". This means that other connecting means may optionally be added in addition

to the gripping connection. That connection is the pivotal connection described in dependent claim 110.

A recess (bevel portion) is not an element in claim 88, therefore cannot be relied upon to identify a particular resilient member described in the same claim. Suffice it to say that a resilient member receives the outer dimensions of the rake handle adjacent it. Whether there is a recess or not in such received portion of the rake handle is irrelevant for the present purpose of this argumentation.

Claim 81 recites "...a connection means ... comprising a pivotal connection for flexibly...". The key word is "comprising" which means that the said connecting means may optionally include other connecting means in the disclosure in addition to the pivotal connection. That connection means is introduced in dependent claims 106, 107, and 108 as the gripping connection having resilient members. Gripper 104 satisfies the limitations in claim 108 while grippers 106 and 136 satisfy the limitations in claim 106.

**Therefore, the embodiment of claim 106 or 108 (base claim 81) is basically the embodiment of claim 110 (base claim 88).**

The applicant has presented strong arguments for the patentability of claim 112 and all those arguments also apply for claim 88 because claims 88 and 112 are substantially equivalent. If the Examiner is finally convinced of the patentability of claims 88 and 112, then claims 81, 106, and 108 should not be restricted.

The applicant is requesting the Examiner to read again the arguments presented in pp.7-9 of the Response to Office Action of 8/17/04 sent by the applicant on 9/16/04 in light of the clarifications presented above.

**New Claims:**

In addition to claims 118 and 119 representing the independent versions of claims 114 and 92 respectively, a second set of dependent claims is submitted for claim 119. These are claims 120, 121, 122, and 123 corresponding to dependent claims 90, 91, 93, and 94 of claim 88 respectively. This is done in case claim 88 is not allowed and the Examiner still does not allow any of claims 90, 91, 93, and 94 even if rewritten in independent form. If claim 88 is found allowable or if the Examiner allows 90-94 in independent form, claims 120, 121, 122, and 123 may be canceled.

In addition, new claims 124 and 125 also dependent on claim 119 are submitted. These claims recite the possible location/s of the resilient member/s.

All the elements recited in this new set of claims are depicted in Figs. 13-A, 13-BR, 13-BL, and in several others figures. They are also amply discussed in the specification, thus can be examined on their merits. No new matter is added.

**Conclusion:**

For all the arguments, reasons, and clarifications presented above, the applicant respectfully submits that the drawing amendments comply with 37 CFR 1.121(d) and 37 CFR 1.84©; that the specification amendments provide consistent terminology among the claims, drawings, and specifications; that the claim amendments to claims 92 and 114 comply with the Examiner's conditions for allowance; and that all the claims submitted are of patentable merit under 35 USC 112 and 102.

Accordingly, applicant submits that this application is now in better condition for allowance. Only claim 89 is canceled in this amendment because of the possible allowance of parent claims like 111, 112, and 88.

This is the first time Callis was cited as anticipating specific claims, and important claims at that. It is only fitting and proper that the applicant take advantage of this opportunity to present arguments against Callis at this time for this could be the last chance. The arguments could spell the difference between having only one specie allowed versus having more than one. Patentability of these claims is supported by strong arguments that could finally convince the Examiner.

Getting more than one specie allowed or getting allowed more than one approach to claiming the same specie will obviate the need for the applicant to file a divisional patent and also relieve the already burdened PTO of the associated work. Also, the Examiner had already invested a lot of research time on the picking rake with the pivotal connection.

The applicant is available by phone to clarify anything related to the invention if necessary. Also, if the Examiner thinks that some claims are still not allowable, the applicant is requesting the Examiner to discuss with the applicant by phone any changes/cancellations that can be done through an Examiner Amendment in order that the applicant can finally place this application in allowable condition as soon as possible and without the need for further proceedings.

Thank you.

Respectfully yours,

*Mary Ann Caneba*  
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Certificate of Mailing:

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Alexandria, VA 22313-1450

on the date below.

Date: Jan. 18, 2005

Inventor's Signature: Mary Ann Chubba

Appn. No. 810/002763  
Grp/A.U. : 3671  
Applicant : Mary Ann Caneba

# ANNOTATED SHEET

1/73

change : Fig. 1-A was moved  
to sheet 2/73  
Fig. 1 - new figure

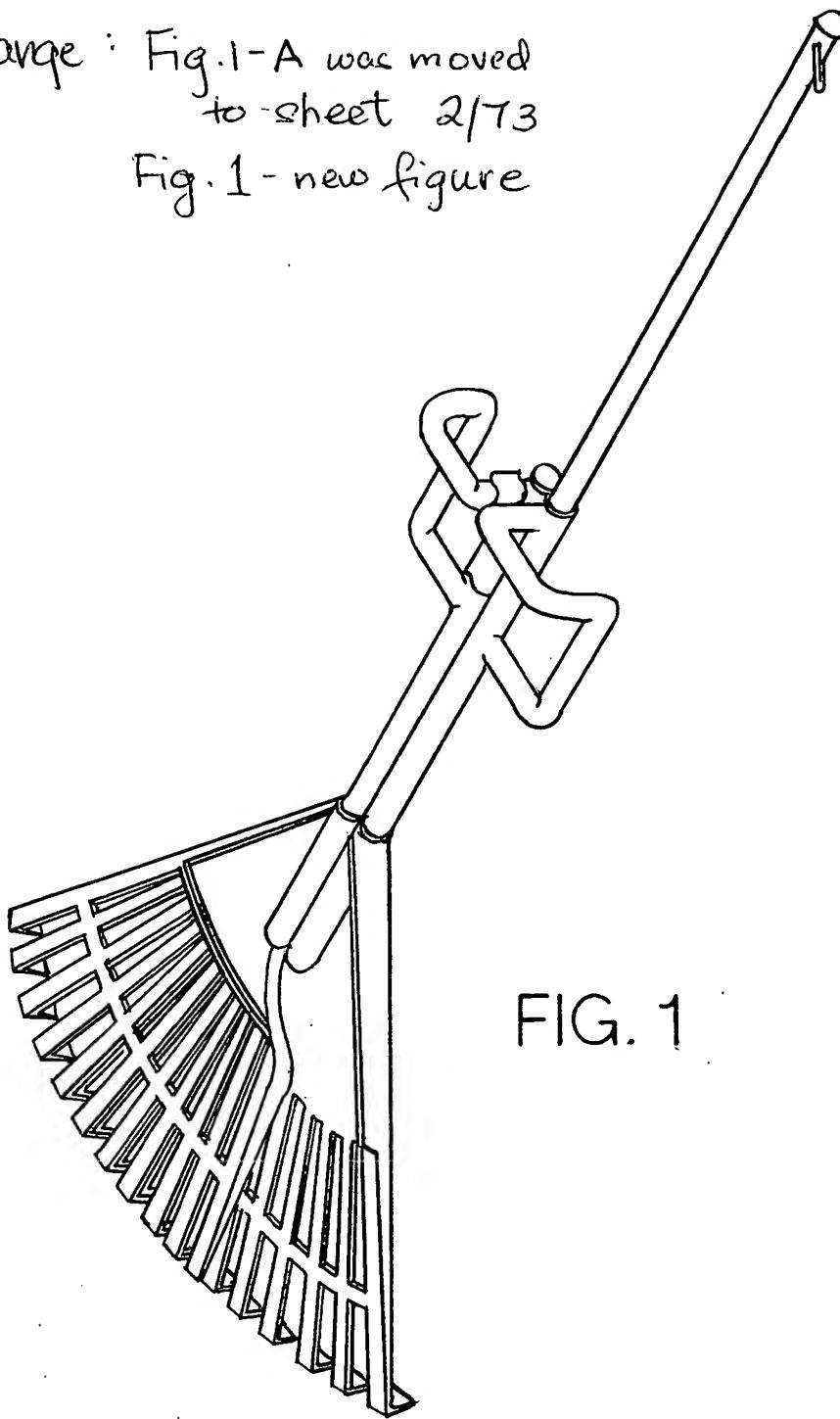


FIG. 1

Appn. No.: 10/802,763  
Grp/A.U.: 3671  
Applicant: Mary Ann Caneba



# ANNOTATED SHEET

2/73

change: Fig 1-A added

FIG. 1-A

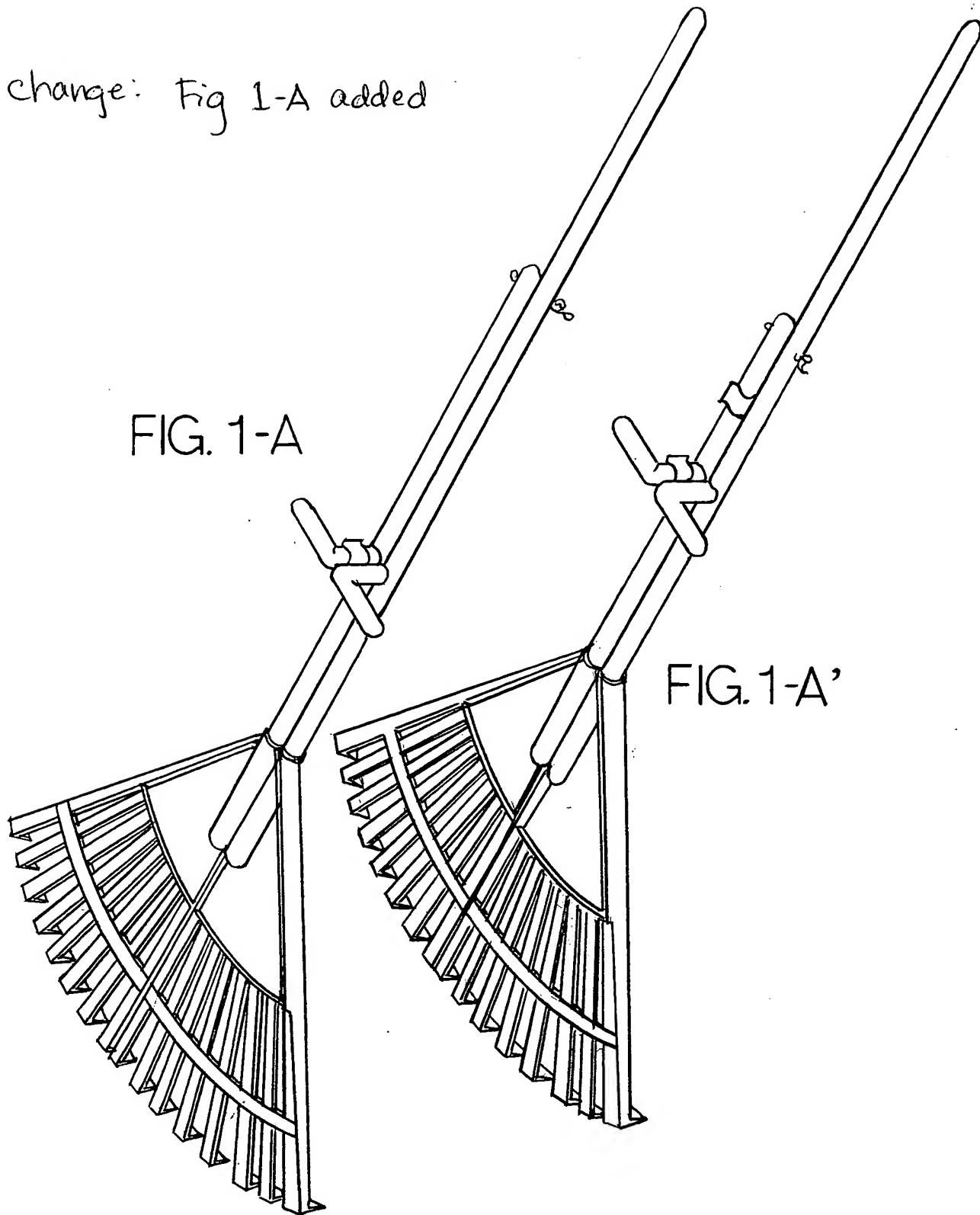


FIG. 1-A'

Appn No. : 10/002,763  
Grp/A.U. : 3671  
Applicant : Mary Ann Caneba

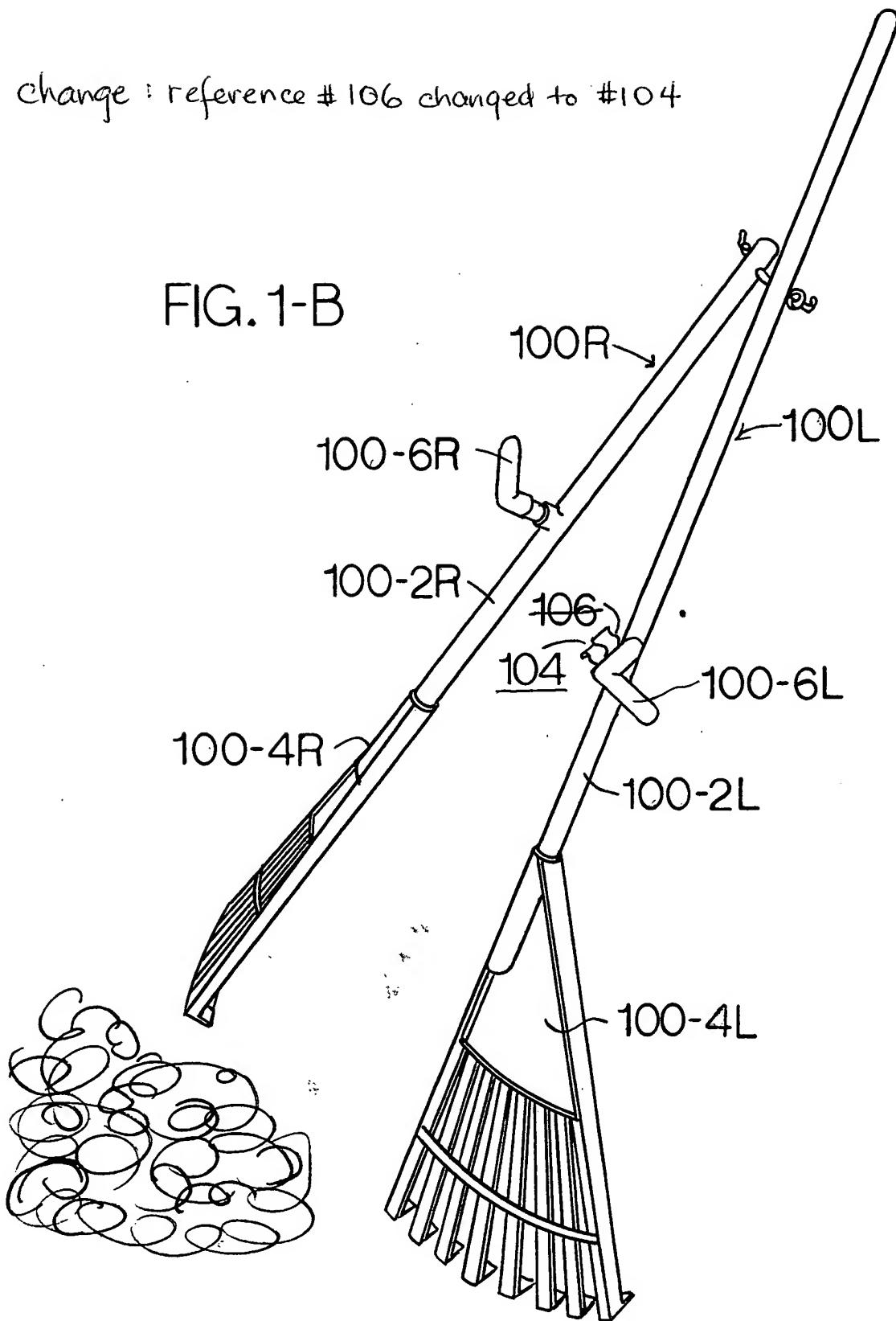
# ANNOTATED SHEET

3/73

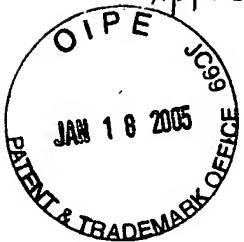


change : Reference # 106 changed to #104

FIG. 1-B



Appn. No : 101002,763  
Grp/A.U. : 3671  
Applicant : Mary Ann Caneba



# ANNOTATED SHEET

4/73

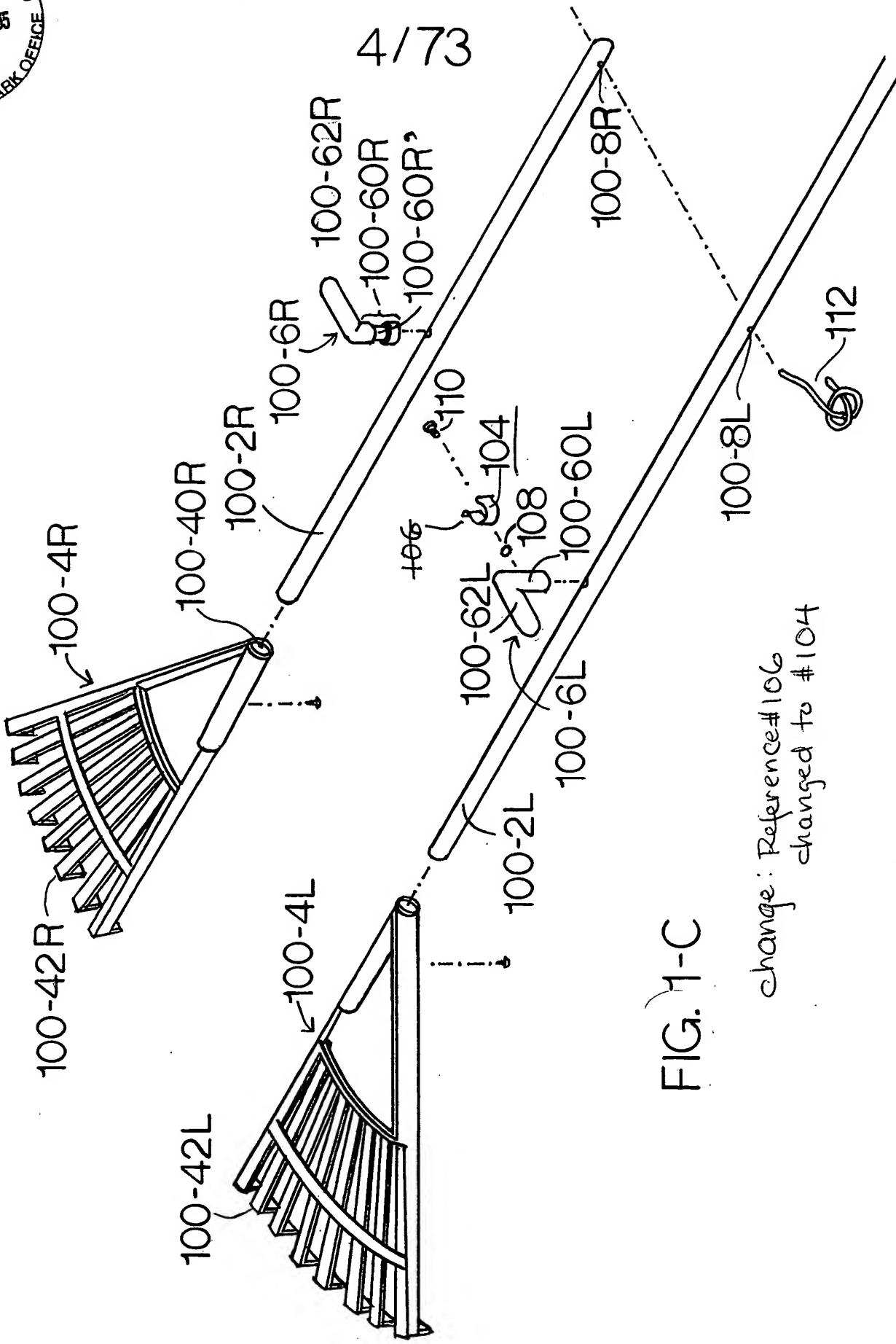


FIG. 1-C

+

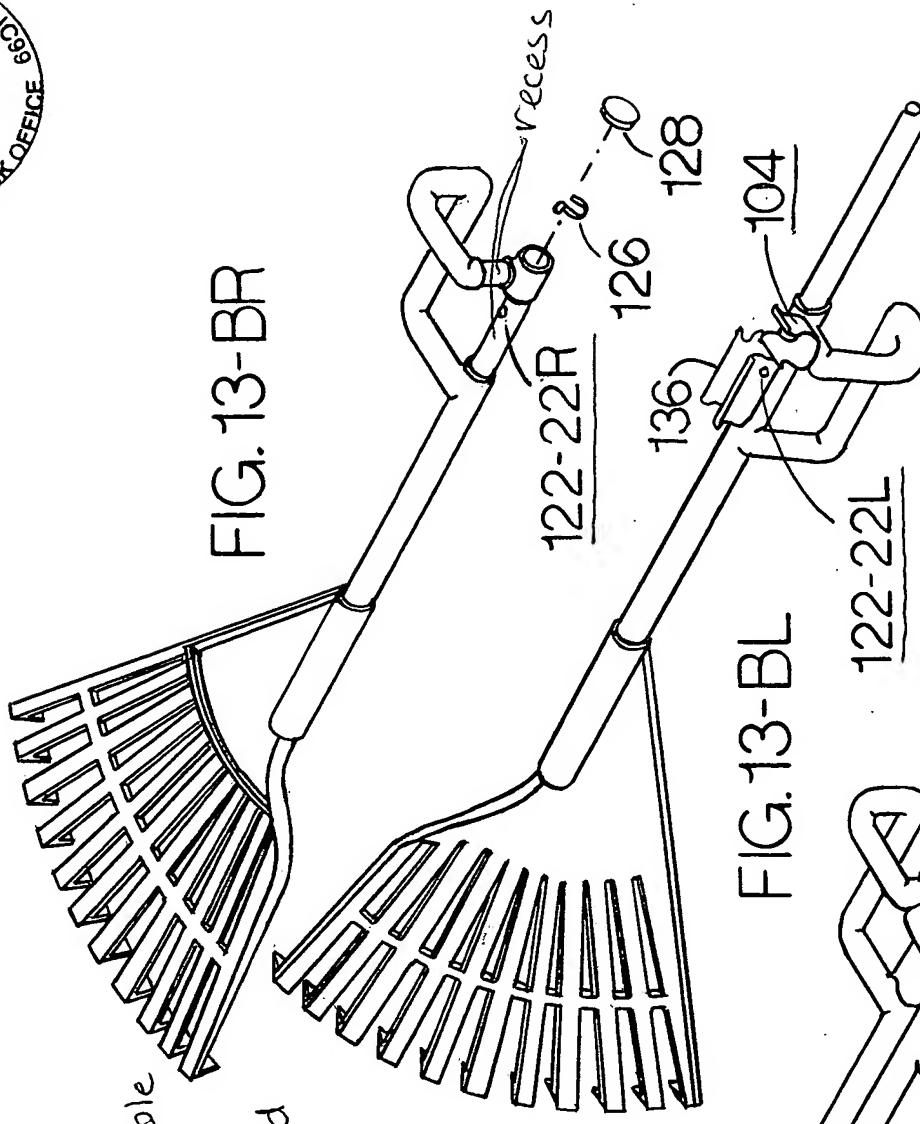
Appn. No. : 10/002,763  
Grp/A.U. : 3671  
Applicant : Mary Ann Caneba

# ANNOTATED SHEET



20/73 +

FIG. 13-BR



- change i-perspective view  
- rake heads overlapped  
- handle shown as extendible  
- apertures 122-22L and 122-22R are shown  
- recesses are emphasized  
- 2nd gripper 104 added

FIG. 13-BL

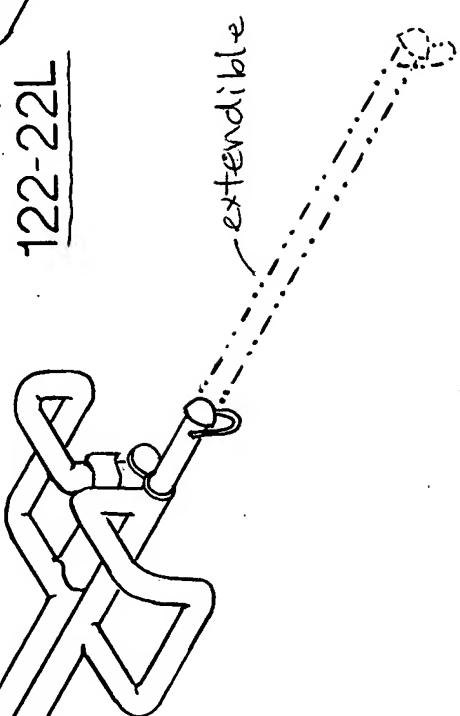
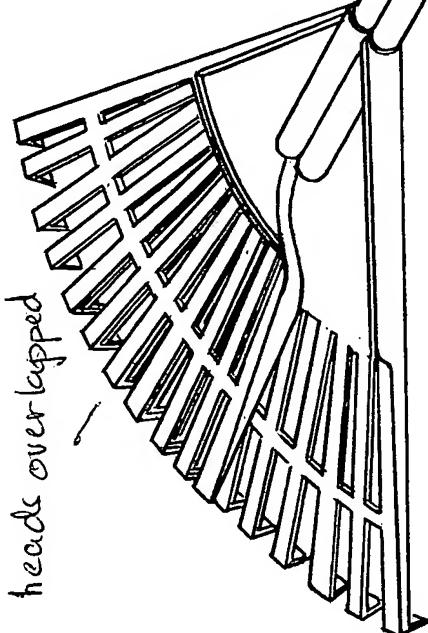


FIG. 13-A



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